



POLICE DEPARTMENT

October 21, 2010

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Richard Llorens  
Tax Registry No. 904378  
77 Precinct  
Disciplinary Case Nos. 84216/08 & 85032/09  
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The above-named member of the Department appeared before me on December 8, 2009, April 22, 2010<sup>1</sup> and June 18, 2010, charged with the following:

Disciplinary Case No. 84216/08

1. Said Police Officer Richard Llorens, while assigned to the 109<sup>th</sup> Precinct, while on duty, on or about March 27, 2008, at approximately 0400 hours, in the vicinity of 41<sup>st</sup> Avenue and Union Street, Queens County, did wrongfully engage in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: said Officer was involved in a verbal and physical altercation with his partner, identity known to the Department.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED  
CONDUCT - GENERAL REGULATIONS

Disciplinary Case No. 85032/09

1. Said Police Officer Richard Llorens, while assigned to the 111<sup>th</sup> Precinct, on or about January 31, 2008, March 11, 2008, and April 1, 2008, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said police officer after receiving appearance notifications, failed to appear at traffic hearings held at the Queens North Traffic Violations Bureau.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED  
CONDUCT - GENERAL REGULATIONS

<sup>1</sup> No trial sessions were held between December 8, 2009 and April 22, 2010, because the Respondent's attorney suffered a serious medical condition.

The Department was represented by Michelle Y Alleyne, Esq , Department Advocate's Office, and the Respondent was represented by Paul S London, Esq

The Respondent, through his counsel, entered a plea of Not Guilty to the subject charges A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review

### DECISION

#### Disciplinary Case No 84216/08

The Respondent is found Guilty

#### Disciplinary Case No 85032/09

The Respondent is found Guilty

### SUMMARY OF EVIDENCE PRESENTED

#### Introduction

It is not disputed that on March 27, 2008, at about 0400 hours, the Respondent and Police Officer Graziano Cillo were on duty and in uniform, assigned to a marked Radio Motor Patrol car (RMP) in the 111 Precinct to address auto larcenies The Respondent was the operator and Cillo was the recorder

#### The Department's Case

The Department called Sergeant Kevin McCaffrey, Police Officer Graziano Cillo, Lieutenant Gary Nardo, and Lieutenant Thomas DeRespino, as witnesses

Sergeant Kevin McCaffrey

Sergeant Kevin McCaffrey, who has been a member of the service since 1993, testified that while he was on duty on March 27, 2008, assigned as the 109 Precinct Auto Larceny supervisor, Lieutenant Gary Nardo called him over the radio at about 0400 hours and instructed him to call the 109 Precinct desk. When he did so, he was told to respond to 41<sup>st</sup> Avenue and Union Street, Queens, because there was "an altercation between the 111 [Precinct] GLA [Grand Larceny Auto] Officer Llorens and Officer Cillo."

McCaffrey went directly to 41<sup>st</sup> Avenue and Union Street. He was accompanied by his driver, Officer Maloney. McCaffrey had worked with the Respondent previously when he was in the Auto Larceny Unit and never had any issues with him.

When he arrived at 41<sup>st</sup> Avenue and Union Street, he observed the Respondent standing on the sidewalk smoking a cigarette next to the driver's door of the RMP. He recalled that Officer Cillo was "up on the sidewalk up against the building." He asked the Respondent what was going on. The Respondent "said something to the effect that shut just jumped off or that he couldn't take any more." When he told the Respondent to take Cillo and report back to the 109 Precinct station house, the Respondent "said Cillo wouldn't get in the RMP" so he told the Respondent "to take the RMP back to the 109 and I took Cillo with me." He did not ask the Respondent why Cillo would not get into the RMP with him.

He described the Respondent's demeanor as "calm, relaxed." He described Cillo's demeanor as "shaky, nervous." He told Cillo to get into his RMP and that he would take him to the 109 Precinct station house.

On the drive to the 109 Precinct, McCaffrey asked Cillo what had happened and Cillo told him that he and the Respondent "got into a verbal argument, a heated discussion over a command discipline [CD] that had been issued" previously and that the Respondent had "pulled the RMP over, got out of the driver's seat, opened the passenger door, pulled Cillo out, pushed him up against a wall and struck him in the face " McCaffrey did not notice any physical injuries on either the Respondent or Cillo Other than removing their firearms at the 109 Precinct station house, McCaffrey had no further interaction with either Cillo or the Respondent that night

On cross-examination, McCaffrey confirmed that the Respondent worked in his unit for a year-and-a-half and that he was transferred out of the unit after he made an allegation that a supervisor had interacted with him inappropriately by checking his firearm while the supervisor was on modified duty Prior to that allegation, McCaffrey had rated the Respondent as "about average with everybody at that point " McCaffrey denied that he had accused the Respondent of spying on him or bugging his cell phone Prior to March 27, 2008, he had never supervised Cillo because Cillo was assigned to the 111 Precinct, not the 109 Precinct He was not aware that Cillo had complained that he did not want to work with the Respondent and he was not aware that Cillo had complained that he had been given the nickname "blockhead" by his fellow officers

McCaffrey confirmed that on March 27, 2008, he received a telephone call from Nardo at about 3 58 a m Nardo told him to go to 41<sup>st</sup> Avenue and Union Street He arrived there three or four minutes later The Respondent and Cillo were both on the west side of the street The Respondent was out on the street by the driver's side door of the RMP and Cillo was up on the sidewalk He did not hear any name calling or cursing

being exchanged between the two officers. The Respondent was standing calmly, smoking a cigarette. He did not notice any signs of disorderliness on his uniform or any blood or injuries. The street lighting on the street at the location was normal. The Respondent briefly told him that something had erupted and that he just could not take it any more.

McCaffrey then went over to Cillo who appeared shaky and nervous and had tremors in his hands and his voice. He described Cillo as 5'9" or 5'10" with a medium build. He described the Respondent as about the same height and build. When he asked Cillo if anybody was hurt, he said, "No." Cillo stated that that he had been punched in the face. Cillo told him that when the Respondent went to hit him, he had put his hand up to block him and that he told the Respondent that he did not want to do this on the street. Cillo never told him that he had banged his hands against the dashboard of the RMP on the recorder's side, and he never told him that he had taken off his seat belt and exited the RMP voluntarily. Cillo told him that the Respondent had pulled him out of his seat. He did not ask Cillo why he did not just lock the door when the Respondent exited the RMP which has door locks that could be operated from either the front passenger seat or the driver's seat. He did not ask Cillo how the seat belt got off of him if he had been pulled out of the car. Both officers were in full uniform wearing jackets, gun belts and bulletproof vests. He found them both fit for duty. Cillo told him that he had told the Respondent, "Why don't we just settle this after work." Cillo told him that they had argued inside the RMP because the Respondent was upset about having been issued a command discipline. On the drive to the 109 Precinct, Cillo did not tell him that he disliked the Respondent because he had prior problems with him.

On redirect examination, McCaffrey confirmed that the Respondent never told him that Cillo had struck him or hit him or pushed him or shoved him

On re-cross-examination, McCaffrey confirmed that his separate conversations with the Respondent and with Cillo lasted about two minutes each

Police Officer Graziano Cillo

Police Officer Graziano Cillo, a nine-year member who has been assigned to 100 Precinct for the past six months, testified that as of March 27, 2008, he had been partnered with the Respondent for about two weeks. He described their working relationship during those two weeks as "not good" because they "basically didn't get along." Cillo believed the Respondent did not want to work with him "because pretty much the two weeks was disagreements. Anything I said, he felt the opposite of. He wanted to dispute anything, start arguments." They disagreed about everything "from health nutrition to breast feeding."

On March 27, 2008, a sergeant pulled their RMP over. He warned and admonished them that they were out of their sector. Cillo was not aware that they were out of sector because he "wasn't very familiar with the area." After the Sergeant drove away, the Respondent became agitated because he was "angered by having been chastised for being out of the sector" and, at one point, he punched the steering wheel. The Respondent began driving in an "erratic, agitated" manner. He stated that "they were after him" and he "brought up an incident that occurred a year earlier regarding a

He told Cillo that Cillo "did not go to bat for him and I was all about myself and self preservation, and I knew exactly what had happened to him." Cillo

'explained to him that I didn't know that he got any type of reprimand for" the CD which involved the Respondent driving a prisoner in Cillo's custody from the 112 Precinct to the 111 Precinct. A captain had asserted that the Respondent was speeding excessively. When the captain asked Cillo if he had known that the Respondent was speeding, Cillo answered in the negative. Cillo had believed that the Respondent had merely 'been warned and admonished."

On March 27, 2008, Cillo was shocked "that he had gotten any type of reprimand other than verbal, and that he brought it up to me a year later with fury and anger. He was turning red. He was screaming and leaning toward me basically shouting that I had been all about myself and self preservation." Cillo believed that "he was going to strike me" because "he was leaning toward me over the center console." The Respondent pulled the RMP over. Cillo recalled that he "was screaming at me and calling me a bitch and a pussy and telling me that I was all talk and telling me to step outside of the car." Cillo told him, "Take me back to the 111," because "we were in middle of the street, in uniform, in a marked police car. I didn't want to have any type of altercation, verbal or physical."

Cillo recalled that the Respondent 'kept cursing at me, continued to drive a little bit further and then pulled over abruptly and walked outside of the car, walked to my door, opened the door and reached in to pull me out." Cillo took his seat belt off as the Respondent reached in. The Respondent "reached in, grabbed me by the shoulder and basically pulled me out of the car. As I got out of the car, he threw me onto the rear right door." Cillo asked him, "What are you doing? Are you crazy? We can't do this right now." Because the Respondent was "grabbing me" and "basically swinging and pushing

me by uniform," Cillo was "grabbing his wrists and pulling his arms off me. Every time I did manage to get his hands off my shoulders he basically hit me with his forearms in the neck and shoulder every time like that. He gave me a nice shot every time I grabbed his hands off."

Cillo saw vehicles pass by them, but he saw no pedestrians. Cillo said he was "keeping my balance so he wouldn't throw me on the floor. We ended up circling around the car to the middle of the street." Cillo did not kick or punch the Respondent. Cillo only tried to break his grip and push him off of him. Cillo recalled that, "Once we got to the middle of the street, I guess he realized I wasn't going to fight him, so he went back to the car, opened the door and said, 'Get back in the car, bitch.' I said, 'I'm not going in the car with you, and he drove away with my equipment in the car.'" Cillo phoned the precinct and told Nardo that he needed a ride back because he had been attacked by his partner. Nardo said he would send a car for him. Cillo walked away from the scene of the incident because he was looking for a street sign to denote his location. Cillo recalled that the Respondent "pulled up maybe a half block away from where I was standing and parked." The Respondent then "sat on the hood of the car with his arms crossed, staring at" Cillo and "smiling." When McCaffrey arrived at the location, he told Cillo to get in his car.

On cross-examination, Cillo confirmed that other officers had teased him by calling him "blockhead." Cillo denied that at roll call at the 111 Precinct he became so angry that he hit his head on a chalkboard in the Muster Room. Cillo denied that he is very angry at the Respondent even though he was placed on modified assignment because of this incident and even though he lost an opportunity to work as an undercover



officer Cillo asserted that he does not blame the Respondent, he blames the incident because, 'It shouldn't have happened,' although the Respondent "caused the incident ' Cillo confirmed that he had worked with the Respondent for approximately two weeks prior to this incident and that the reason they had been partnered together was because the Respondent had three or four years of experience Cillo confirmed that he never told any supervisor prior to March 27, 2008, that he did not want to work with the Respondent, that he was uncomfortable, or that it was not working out Cillo explained that, 'I thought maybe he was just having a bad couple of weeks, so I didn't think it was going to culminate to what it did Before they were partnered together, he and the Respondent, "just saw each other at work and said hello and good bye "

Cillo could not recall whether the Respondent was one of the people who called him "blockhead" because no one ever called him "blockhead" to his face He was aware that someone was calling him "blockhead ' because "there were some signs put up and stuff written" on his locker and on posters Cillo conceded that it was possible that the Respondent had tried to counsel him about how to handle this teasing Cillo did not know whether the RMP had power locks or how many times he had used this particular RMP He could recall whether the Respondent had come around the front or the rear of the RMP because "it happened very fast " When he was asked why he had not locked his door when he saw the Respondent coming to him, he answered, ' Didn't come to mind right away, no " He had no recollection of the Respondent telling him about an officer whose partner was no longer eligible for overtime telling supervisors that if his partner was not eligible then he would forsake overtime also He did recall a conversation about child rearing and breast-feeding and a conversation about health, what they were going to

eat and physical fitness. He denied that he had criticized the Respondent about the types of foods that he ate.

With regard to the incident that had occurred a year earlier in which the Respondent received a CD, he testified that he had no recollection that he had complained to the Respondent that processing his arrest was going to take a long time and that he had to get home for a family function and that he was in a rush to process his arrest because he had other things he had to take care of once he completed his tour of duty. He confirmed that the Respondent drove quickly while transporting him from the 112 Precinct to the 111 Precinct, that he never told him to slow down, and that his head was facing down because he was doing paperwork while the Respondent was driving. He denied that when they arrived back at the 111 Precinct the Respondent was already trying to help him do the paperwork for his arrest. He was told that as a result of the arrest processing incident that the Respondent was placed on a foot post for the next three hours. He had no recollection as to whether it was cold or icy or rainy that day.

He denied that during his conversation with the Respondent on March 27, 2008, he had told him that it was every man for himself or that it was each police officer's own responsibility to look out for himself. He recalled that he told the Respondent, "We can talk about this. We can handle this a different way. Let's go back to the command," because he "wanted to defuse the situation. I figured with a little bit of time it might have possibly changed. I wanted to get away from a madman." He testified that he considered the Respondent "pretty much" a madman because "he was screaming and purple in the face and trying to attack me for absolutely no reason" and that while they were outside of the RMP on the street, the Respondent struck him "between the neck and shoulders, all

around,” although afterwards he did not need to go to the hospital or seek any type of medical care whatsoever

McCaffrey appeared about ten minutes later Cillo recalled that the Respondent was smiling with his arms crossed, but he could not recall if the Respondent was yelling at him He confirmed that he raised his voice but he denied that he had yelled or screamed or called the Respondent names or threatened to “kick his ass ” He told the Respondent that he did not know he had gotten a CD for the arrest processing incident and apologized to him He recalled that he finally said to him, ‘ You know what? Then I’m not going to talk about this with you anymore and I tried to look out the window and ignore him ” When the Respondent pulled him out of the RMP, he did not resist He ‘came out with him as he pulled me out ” He did not exit the vehicle on his own and meet the Respondent at the rear of the RMP When he saw the Respondent get out of the RMP, he did not get out of the RMP because he ‘ froze, bad tactics on my part ”

On redirect examination, Cillo recalled that after the Respondent’s forearms made contact with his jaw, he had some slight reddening on the right side of his jaw When he told the Respondent, “You just hit me in the face,” he responded, “I’m not hitting you,” and he indicated that he was using his forearms and holding his fists up

Lieutenant Gary Nardo

Lieutenant Gary Nardo testified that on March 27, 2008, he was assigned to the 109 Precinct, and he was while on duty, at about 0400 hours, he received a phone call from Cillo who told him that he was in an “awkward situation,” that he did not know where he was and that his “partner took off ” Nardo recalled that Cillo also told him that

the Respondent "took two swings" at him, but that he did not make contact Cillo stated that he had not swung back at him, that the Respondent had called him names, and that the Respondent had tried to push him back into the RMP, but he had resisted and stayed outside Cillo did not tell Nardo what the dispute was about Nardo contacted McCaffrey and directed him to bring Cillo back to the 109 Precinct When Cillo entered the 109 Precinct, he appeared unhappy

On cross-examination, Nardo testified that his phone conversation with Cillo lasted two minutes and that Cillo did not tell him that he had called the Respondent names Cillo refused medical attention. He did not speak with either Cillo or the Respondent when they came back to the 109 Precinct Nardo testified that he had no prior dealings with either Cillo or the Respondent

Lieutenant Thomas DeRespino

Lieutenant Thomas DeRespino recalled in 2008 he was assigned to the 111 Precinct as the Integrity Control Officer and that he issued the Respondent three CDs for having failed to appear at traffic hearings held at the Queens North Traffic Violations Bureau on or about January 31, 2008, March 11, 2008, and April 1, 2008 DeRespino confirmed that the Respondent had signed appearance notification forms notifying him to appear at traffic hearings held on these dates at the Queens North Traffic Violations Bureau

DeRespino conducted an official Department interview of the Respondent regarding his failures to appear at these traffic hearings With regard to January 31, 2008 court date, the Respondent stated that he had lost the appearance notification With

regard to March 11, 2008, at first the Respondent stated that he was on vacation on that date, but he then stated that he could not recall whether he appeared at court on that date or not. With regard to April 1, 2008, the Respondent stated that he had been unable to go to court on that date because of an emergency that had arisen regarding his mother.

On cross-examination, DeRespino testified that officers are presented with appearance notifications at roll call. DeRespino identified the January 31, 2008 [Respondent's Exhibit (RX) A], March 11, 2008 (RX B), and April 1, 2008 (RX C) court date appearance notification forms the Respondent was presented with and signed at roll call. DeRespino testified that the Respondent was transferred out of the 111 Precinct prior to April 1, 2008.

#### The Respondent's Case

The Respondent testified in his own behalf.

#### The Respondent

The Respondent, who is currently assigned to the Queens Quartermaster Section, testified that he has been a member of the service for over 16 years. He was assigned the 115 Precinct for about six years and then was transferred to the Queens North Task Force where he worked about two years. He then applied to be transferred to the Queens North Auto Larceny Unit and he was transferred to that unit to investigate auto thefts. He was then administratively transferred to the 111 Precinct "because they lodged a complaint against me" regarding a "sergeant who pointed a weapon at my head." The Respondent stated that this was the incident that Cillo had referred to in his testimony.

When the Respondent arrived at the 111 Precinct, he "requested to be the 111 Precinct Midnight Summons Auto " He performed solo patrol doing summons duty for nearly two years Prior to being placed on modified assignment on March 28, 2008 he had made "anywhere from four to five hundred" arrests, about half of which were for felony crimes His overall evaluations from March, 1994 until 2004, "were normally 3.5 to 4.0 "

The Respondent stated that he began to have problems at the Queens North Auto Larceny Unit after he made a complaint because "a sergeant who had attempted to commit suicide was allowed to do a weapons inspection of myself and another officer," Police Officer Sankerdlial The Respondent testified that, "In my opinion, the reason I was administratively transferred was as a direct result of making the complaint against the sergeant" because "as just normal practice, if you go against one boss, it's basically they all gang up on you to teach you a lesson "

The Respondent recalled that a week or two after he had been assigned to the 111 Precinct, he met Cillo, who also worked the midnight platoon, and they were partnered together for the entire midnight shift "on and off, maybe twice a week " The Respondent stated that Cillo's testimony that they had not been regular partners until the two weeks preceding the incident was not correct The Respondent stated that Cillo's reputation among the other officers at the 111 Precinct was that he was "a hot head," because "on occasion, he would come down and make claims to everyone at roll call that he was the best looking cop in the command and that if someone had a problem with it they could come up there and talk to him about it " Cillo was given the name "blockhead" because of "the size of his head" and because "everyone considered him to be stupid " The

Respondent recalled that someone had drawn a picture of 'a Radio Head, but they took off the antennas and they put down blockhead, meaning" Cillo and that they plastered these pictures all over Cillo's locker, and in the bathrooms and hallways. The Respondent witnessed three occasions on which Cillo confronted officers he suspected of having put up the pictures. In the summer of 2007, Cillo accused a senior officer of being the one who actually plastered the blockhead pictures inside the precinct and Cillo 'physically challenged the senior officer to which the officer just giggled and walked away." Cillo was so agitated that the officer did not want to fight him that he punched his own locker twice and stated, "Stop being a pussy. Be a man, face me." The Respondent recalled that he told Cillo "to calm down, not to let it get to him. I advised him, 'Listen, what's going to happen. you're going to get jammed up and they re going to go after your job. What they're trying to do is basically pin you down and make you look like you're a loose cannon. If you don't calm down, you're giving them all the basis they need to just basically say you're a loose cannon. You're gonna get jammed up.'"

The Respondent asserted that he realized that Cillo was selfish and manipulative after he had helped Cillo, who had made an arrest but wanted to leave work as soon as possible, by arranging to have Cillo's prisoner processed ahead of the prisoners of other waiting officers. Even though he did this for Cillo, Cillo did not come to his aid when a captain held the Respondent solely responsible for this breach of procedure and punished him by putting him on a foot post on a cold night and by ordering other officers to stay away from the Respondent. He also received a CD and forfeited about five vacation days.

On March 27, 2008, McCaffrey asked them why they were out of sector. The Respondent told him, 'the sector is dead, there's nothing going on. I'm looking for activity.' McCaffrey told them to get back to their sector. As the Respondent drove back to their sector, he and Cillo "started to discuss activity and partnerships." He explained to Cillo that "McCaffrey did not like me because of the mere fact that I went against another Sergeant." The Respondent began "talking about partners and how partners should stand up for one another" by relating a story about "two officers where one partner was grounded for being too active and his partner said, 'If they're gonna ground you, they're gonna ground me also.'" Cillo said he thought that the officer who decided to back up his partner was "stupid" because "he should be worrying about himself." When Cillo said, 'Because that's what I'm doing,' the Respondent interpreted his remark to mean "that he's looking out for himself and only when it concerns him" and that he does not care about anyone else, only about himself.

The Respondent asserted that "Cillo hated the fact that I drank coffee. He hated the smell of coffee in the car. He complained about what I ate." If the Respondent brought "food from home, be it Shepherd's pie or lasagna," Cillo would ask him, "How could you eat that garbage?"

The Respondent recalled that "during the height of one of the arguments we were having," Cillo screamed at him, 'What did you want me to do?' He told Cillo, 'You should have stood up like a man and said what your part was in it.' Cillo then said, 'Why should both of us take the fall, take the hit?' The Respondent testified that he "naturally got upset" and that he told Cillo, "I stood up for you. I went to bat for you. All you had to say was, you know, he did it for me. When I was questioned by the



Captain, I never gave up his name. I said I was just helping out another officer who said he needed to get back to the command in a hurry, and that was all I said." When Cillo then said, "I gotta look out for myself. Why should both of us take a hit?" The Respondent said, "We're supposed to be partners. How can I trust you if I take a hit for you and you don't even say thank you?" The Respondent testified that Cillo became enraged and he started punching the RMP's dashboard while screaming, "What the fuck did you want me to do?" Cillo then "leaned into me, got in my face" and told him, "Pull the car over. I'm going to kick your ass." The Respondent then "hit the brakes" and stopped in the middle of Main Street and Ascan Avenue. He asked Cillo, "Are you nuts?" Cillo repeated, "I'm going to kick your ass. Pull the car over."

When the Respondent put the RMP back in motion and proceeded to drive up the street, Cillo repeated, "Pull the car over. I'm going to kick your ass." The Respondent "kept telling" Cillo, "Are you fucking nuts?" The Respondent pulled the RMP over and Cillo "jumped out." He saw Cillo move to the rear of the RMP, "so I came out of my side" and "we met at the rear of the vehicle." The Respondent asserted that, "When he was coming around the rear of the car, he started running toward me, so I defensively pushed him back." Cillo was larger than him and the Respondent "knew that he constantly went to the gym and he had an interest in UFC style" fighting. The Respondent asserted that, Cillo "grabbed me by my vest and jacket" and while they were standing face-to-face, Cillo lifted him up on his toes and pulled him toward him. The Respondent testified that he broke out of Cillo's grasp by bringing his arms upwards inside of Cillo's hands and pushing outward with his forearms until Cillo released his grip. He did not intentionally use his forearms to strike Cillo. The Respondent asserted

that Cillo then grabbed his belt on the side where his holstered weapon was attached. The Respondent slapped his hand away and told him, "If you don't like the job, leave, quit. I'm tired of your complaining. I'm tired about you bitching about everything and if you don't like it, quit. I told him to grow the fuck up. I told him to get back in the car and let's go to the Command." He had no recollection that he had called Cillo "a pussy."

Cillo refused to get back inside the RMP and started walking up the block. The Respondent got back into the RMP and drove up next to Cillo with the window down repeatedly telling him "to get the fuck back in the car." After following Cillo for about "three-quarters of the block," he saw that Cillo "was on his cell phone."

The Respondent "started heading back toward" the 109 Precinct. He intended "to tell the desk sergeant what happened," but he "thought about it twice and just went around and came back" to where Cillo was. He was away from Cillo for no more than 15 to 20 seconds. He parked the RMP approximately within 50 feet of Cillo who was "on the cell phone again." He started walking toward Cillo and told him, "Get back in the RMP. Let's talk about this." Cillo responded, "I'm going to take care of you through the job and then I'm going to take care of you afterward." When he asked him, "Are you kidding? Are you threatening me?" Cillo responded, "You're damn right I'm threatening you." The Respondent called his union delegate who advised him to take it back to the command. The Respondent asserted that he did not call a supervisor while this incident was occurring because he did not think a supervisor needed to be called to the scene for something so minor as an argument between two partners.

When McCaffrey pulled up, he walked over to him. When McCaffrey asked him what happened, he "simply stated to him that we had a blow out." When McCaffrey told

him to have Cillo get inside the RMP and take him back to the command, he told McCaffrey that Cillo refused to get in the RMP with him. McCaffrey then instructed him to follow him back to the 109 Precinct, which he did. The Respondent asserted that he was careful in speaking to McCaffrey because McCaffrey had previously accused him of tracking his personal cell phone.

With regard to Disciplinary Case No. 85032/09, when the Respondent was asked if he had received a notification from the 111 Precinct in regard to a January 31, 2008, appearance at the Administrative Adjudication Bureau (AAB), he answered, "I believe so." He did not appear in court on January 31, 2008, because he "lost the notification -- actually, I may have forgotten about that one." With regard to March 11, 2008, the Respondent stated that he received a notification that he had to report to AAB on that date at 8:30 a.m. He asserted that, "When I received the notification, I believe I put down that I was supposed to be on vacation. When he informed a sergeant that he was supposed to be on vacation, the sergeant told him to write down vacation, which he did, and to put his name above it, outside the box, which he did. The Respondent was shown RX B and confirmed that "there appears to be a line going through" the word vacation. Since he did not write that line, as far as he was concerned, he was not assigned to go to AAB on March 11, 2008, "because I was supposed to be on vacation. I notified the Sergeant. I thought it would be canceled."

With regard to April 1, 2008, the Respondent stated that he received and signed a notification that he had to report to AAB on that date but he did not go to AAB because he was notified "that my mother was in [REDACTED] Hospital and I went there with her."

As of April 1, 2008, he had already been transferred to the Queens Quartermaster Section. He confirmed that he was still assigned to the 111 Precinct when he received this notification. He stated that, "I believe I called the Sergeant" at the Queens Quartermaster Section because he "had taken the day off to go" with his mother. He was working midnight tours when he received and signed these three notifications.

On cross-examination, he confirmed that he was aware of Cillo's reputation of being a hot head and that Cillo had physically challenged another officer in his presence. He asserted that he told his commanding officer and his platoon lieutenant, whose names he could not recall, that he did not want to be paired with Cillo because he was a hot head. On March 27, 2008, he pulled the RMP over when Cillo leaned over from his seat, "put his hands in my face" and threatened him by saying, "Pull the the fucking car over I'm going to kick your ass." He confirmed that when Cillo got out of the RMP, he did not call a supervisor, he did not put his window up and he did not lock the driver's door. He got out of the RMP, met Cillo at the rear of the vehicle, and engaged in a physical tussle with Cillo. He asserted that he got out of the RMP "because I wasn't sure what he was going to do, but I wanted to make sure that I wasn't going to put myself in a vulnerable position."

FINDINGS & ANALYSIS

Disciplinary Case No 84216/08

It is charged that the Respondent, on March 27, 2008, at about 0400 hours, in the vicinity of 41<sup>st</sup> Avenue and Union Street, Queens County, wrongfully engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that he was involved in a verbal and physical altercation with Cillo, his partner

I find the Respondent Guilty based on his own testimony

The Respondent's testimony establishes that he had ample reason to want to engage in a physical altercation with Cillo on March 27, 2008. The Respondent testified that by March 27, 2008 he had come to believe that Cillo was selfish and manipulative. He bitterly recounted how he had helped Cillo by speeding up the processing of Cillo's prisoner but that because Cillo did not "stand up" for him, he was assigned to a foot post on a cold night and was issued a CD for which forfeited five vacation days. The Respondent admitted that on March 27, 2008, he revisited this particular grievance that he held against Cillo after McCaffrey warned them that they outside their assigned sector and the Respondent admitted that he became upset when Cillo adamantly refused to agree with his position that partners needed to "stand up" for each other.

When these grievances against Cillo are combined with the Respondent's testimony regarding the litany of other reasons why he could not stand Cillo (including that Cillo hated that he drank coffee, complained about what he ate, and called his food garbage), the overall impression left by the Respondent's testimony about Cillo is that the combination of McCaffrey's chastisement of the Respondent for driving out of their assigned sector and Cillo's adamant refusal to adopt the Respondent's position that

partners should stand up for each other, were the two straws that broke the camel's back on the night of March 27, 2008, and that something in the Respondent snapped

The Respondent claimed that he had no reason to believe when got out of the RMP and went to meet Cillo at the rear of the RMP that a physical altercation would occur. I reject his claim because it is inconsistent with all of the Respondent's testimony regarding Cillo. The Respondent claimed that Cillo had a reputation of being a "hot head" and that he had personally witnessed Cillo physically challenge another officer. The Respondent also testified that just before Cillo got out the RMP, Cillo had become enraged and was punching the RMP's dashboard and that Cillo had then leaned into him, put his hands in the Respondent's face and told him, "Pull the car over. I'm going to kick your ass." Based on the Respondent's own description of Cillo's words and actions, he had good reason to believe that if he got out of the RMP and went to meet Cillo outside, a physical altercation would take place.

Finally, I reject the Respondent's claim that he had no desire to engage in any physical altercation with Cillo at the rear of their RMP because the Respondent's explanation for why he got out of the RMP and met Cillo at the rear of the RMP makes no sense. The Respondent testified that after he saw Cillo get out of the RMP, he also got out of the RMP and walked towards Cillo "because I wasn't sure what he was going to do, but I wanted to make sure that I wasn't going to put myself in a vulnerable position." If the Respondent had truly wanted to insure his own physical safety by avoiding putting himself in a vulnerable position, he could have simply rolled his window up and locked the driver's side door. Also, if the Respondent truly wanted to avoid a physical altercation with Cillo, he could have stayed where he was, safe inside the RMP, and

radioed for a supervisor to respond. The Respondent admitted that he did not call a supervisor, he did not roll his window up and he did not lock the driver's door next to him. Instead, he got out of the RMP, met Cillo at the rear of the vehicle and engaged in a physical tussle with Cillo which, I can only conclude, is exactly what the Respondent wanted to do.

The Respondent is found Guilty

Disciplinary Case No. 85032/09

It is charged that the Respondent wrongfully engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that after he had received appearance notifications to appear for traffic hearings scheduled to be held at the Queens North Traffic Violations Bureau on January 31, 2008, on March 11, 2008, and on April 1, 2008, he failed to appear at these traffic hearings.

The Respondent corroborated DeRespino's testimony that he signed three appearance notification forms which put him on notice that he was expected and required to appear at the three traffic hearings scheduled to be held on the charged dates.

It was the Respondent's responsibility to either appear as notified or to take affirmative actions on his own volition to insure that his appearances were canceled and rescheduled. Thus, the Respondent's claim that it was the fault of roll call or unnamed others that his appearances were not canceled is unavailing as a defense to these charges.

The Respondent is found Guilty

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined See *Matter of Pell v Board of Education*, 34 N Y 2d 222 (1974)

The Respondent was appointed to the Department on August 30 1993  
Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum

The Respondent has been found guilty of wrongfully engaging in conduct prejudicial to the good order, efficiency and discipline of the Department in that he was involved in an on-duty verbal and physical altercation with his partner, a fellow police officer, and failing to appear at traffic hearings on three separate dates after he had received appearance notifications to appear for these hearings

The Assistant Department Advocate recommended that the Respondent forfeit 25 vacation days

The Respondent's physical altercation with his partner took place in the open, in the street, next to a marked RMP, while they were in uniform Thus, his failure to exercise self-control was embarrassing to the Department Moreover, he displayed a cynical attitude regarding Department supervisors when he testified at this trial that he was administratively transferred as a direct result of having made a complaint against a sergeant because "as just normal practice, if you go against one boss, it's basically they all gang up on you to teach you a lesson." If not for his good performance record and the fact that he has no prior formal disciplinary record in 17 years of service, I would be recommending that he serve one year on dismissal probation



In Disciplinary Case No 81173/05 (signed on Dec 19, 2006), a 22-year member who had no prior disciplinary record forfeited ten vacation days for engaging in an on duty physical altercation with another member of the service (MOS). However, in that case, unlike here, the member pleaded guilty and candidly admitted that he had engaged in an on duty physical altercation with another MOS. Also, in that case, unlike here, the physical altercation took place inside a Department laboratory, not on the street.

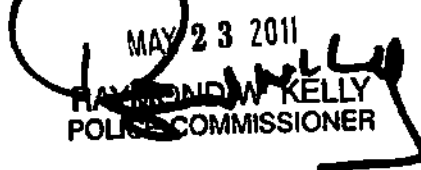
It is recommended that the Respondent forfeit 30 vacation days.

Respectfully submitted,



Robert W. Vinal

Assistant Deputy Commissioner - Trials

**APPROVED**  
MAY 23 2011  
  
RAYMOND W. KELLY  
POLICE COMMISSIONER

POLICE DEPARTMENT  
CITY OF NEW YORK

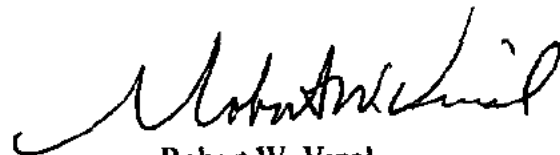
From Assistant Deputy Commissioner - Trials  
To Police Commissioner  
Subject CONFIDENTIAL MEMORANDUM  
POLICE OFFICER RICHARD LLORENS  
TAX REGISTRY NO 904378  
DISCIPLINARY CASE NOS 84216/08 & 85032/09

The Respondent received an overall rating of 4.0 on his 2009 performance evaluation, 4.0 on his 2008 evaluation, and 3.5 on his 2007 evaluation. He has been awarded one Commendation, one Meritorious Police Duty medal and two Excellent Police Duty medals [REDACTED]

[REDACTED] He has no prior formal disciplinary record

On April 23, 2008, he was placed in Level-II Discipline Monitoring based on his overall record

For your consideration



Robert W. Vinal  
Assistant Deputy Commissioner - Trials